

## INTERGOVERNMENTAL AGREEMENT FOR TRANSPORTATION SERVICES

THIS INTERGOVERNMENTAL AGREEMENT FOR TRANSPORTATION SERVICES (“agreement”), dated and effective as of the date of execution by both Parties (“Effective Date”), is entered into by and between the City of Commerce City (“City”) and ADAMS 14 SCHOOL DISTRICT (“District”), both of which are political subdivisions of the State of Colorado (each a “Party” and, collectively, “Parties”).

WHEREAS, Article XIV, Section 18(2)(a) of the Constitution of the State of Colorado and Part 2, Article 1, Title 29, C.R.S., encourages and authorizes intergovernmental agreements;

WHEREAS, Section 4.13 of the Commerce City Charter and Section 2-4201 of the Commerce City Municipal Code empower and authorize the City to enter into intergovernmental agreements;

WHEREAS, the District owns and operates buses for transportation purposes in connection with District operations and the City, through its Department of Parks, Recreation & Golf, requires transportation services for activities and events;

WHEREAS, the City and District desire to enter into this Agreement to establish the terms and conditions by which the City may request and the District may provide transportation services for the City’s activities and events;

NOW THEREFORE, in consideration of the mutual covenants and promises set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows

### I. SERVICES.

A. Services. Subject to available equipment and personnel, the District will provide transportation services using District-owned buses operated by District personnel to transport youth participants and staff to and from field trips, events and activities coordinated through the City’s Department of Parks, Recreation & Golf (“Programs”). The District and the City shall mutually agree on a list of programs the District shall provide transportation services for. The City may request additional Services from the District and the District shall determine, in its sole discretion, if any requested additional Services may be provided. The City reserves the right to cancel any Service upon three (3) business days written notice to the District.

B. Controlling Terms. The terms of this Agreement will control if the terms of any exhibit, attachment, or invoice conflict with this Agreement.

C. Non-Exclusivity. The City may engage the services of other persons for the provision of Services that could be performed under this Agreement. The District acknowledges that it is not entitled to perform any work except as assigned under this Agreement and is not guaranteed any amount of work.

D. Standards. All District personnel performing any Services shall be qualified, licensed, trained, and be supervised to perform the Services. The District shall use buses maintained in a good and safe mechanical condition and a clean and sanitary condition at all times while performing any Services. The District and its personnel shall comply with all applicable laws, ordinances, regulations, and codes in the performance of the Services. The City will provide licensed and qualified staff to supervise youth participants in the Programs in accordance with City rules and regulations and applicable law.

## II. COMPENSATION.

Amount. As compensation for performance of the Services and any other obligations under this Agreement, the City will pay the District for work actually performed at the rate of \$30.00 per hour per driver/bus plus \$3.00 per mile. Time and mileage will start and end at the District's transportation facility. The compensation established by this Agreement includes all of the District's costs and expenses to fully perform the Services and other obligations of this Agreement. The City will not consider or be obligated to pay or reimburse the District any other charges or fees and the District will not be entitled to any additional compensation or reimbursement. The parties acknowledge and agree that the estimated compensation for the Services is less than \$25,000. The Parties agree that the District will not provide Services in excess of \$25,000 absent authorization by the City Council of the City.

A. Invoices. The District will submit invoices on a monthly basis, in a format approved by the City, and provide verification documentation as requested by the City. Invoices will be submitted to the City not more frequently than monthly. Invoices will identify the specific Services performed for which payment is requested, including a description of the Services, the applicable rates, any costs for which District seeks reimbursement, and the total amount that the District claims is due.

B. Payment. The City will make payment to the District within thirty (30) days after receipt and approval of invoices submitted by the District. The City's obligation to make payment is contingent upon the District's: (a) submission of a complete and accurate invoice; and (b) satisfactory performance of the Services and conditions of this Agreement. The City may withhold payment of any disputed amounts, and no interest will accrue on any amount withheld pending the resolution of the dispute.

C. Appropriation. Notwithstanding any other term or condition of this Agreement, all obligations of the City or the District under this Agreement, including all or any part of any payment obligations, whether direct or contingent, will only extend to payment of monies duly and lawfully appropriated and encumbered for the purpose of this Agreement through the City's or the District's legally required budgeting, authorization, and appropriation process, as applicable. Further, the City and the District, by this Agreement, do not create a multiple fiscal year obligation or debt either within or without this Agreement. The City and the District, by this Agreement, do not bind future legislatures to make such appropriations. This section shall survive the termination of this Agreement.

## III. TERM AND TERMINATION.

A. Term. The term of this Agreement will be from the Effective Date until December 31, 2024. ("Term").

B. Termination.

1. Generally. Either Party may terminate this Agreement without cause if that Party determines that such termination is in the Party's best interest. The terminating Party will effect such termination by giving written notice of termination to the other Party, specifying the effective date of termination, at least fourteen (14) calendar days prior to the effective date of termination.

2. For Cause. If, through any cause, either Party fails to fulfill its obligations under this Agreement in a timely and proper manner, violates any provision of this Agreement or violates any applicable law ("Breach"), the other Party may terminate this Agreement for cause immediately upon written notice of termination to the defaulting Party. The defaulting Party will not be relieved of liability to the other Party for any damages sustained by that Party by virtue of any Breach.

3. Effect of Termination. The City will be liable to pay the District for Services performed as of the effective date of termination, but will not be liable to the District for anticipated profits. Unless otherwise instructed in writing, the District will immediately discontinue performance of the Services upon receipt of a notice of termination.

#### IV. INSURANCE.

Required Policies. During the Term, the Parties shall maintain commercial general liability insurance, written on an “occurrence” basis in an amount not less than \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate covering claims for bodily injury, death or property damage and products and completed operations. The Parties shall name each other as an additional insured under such liability insurance policy. The Parties shall also maintain workers’ compensation insurance and other insurance as required by applicable law. The District shall maintain comprehensive automobile liability insurance covering claims for personal injury personal injury, bodily injury or death arising out of the use of motor vehicles and covering operations on or off the site of all motor vehicles controlled by the District that are used in connection with performance of the Services, whether the motor vehicles are owned, non-owned or hired, with a combined single limit of at least One Million Dollars (\$1,000,000). The Parties shall provide each other evidence of such insurance in compliance with this Agreement within five (5) days of the execution of this Agreement and from time to time as requested by either Party.

#### V. NOTICES.

Except for routine communications, written notices required under this Agreement and all other correspondence between the parties will be directed to the following and will be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

If to the City:

Director  
Parks, Recreation & Golf  
City of Commerce City  
7887 E. 60th Avenue  
Commerce City, CO 80022  
Cc: City Attorney’s Office

If to the District:

Adams 14 School District  
Transportation Manager  
5291 E. 60<sup>th</sup> Ave  
Commerce City, CO 80022

The parties may agree to delivery of notices via electronic mail.

#### VI. GENERAL PROVISIONS.

1. Independent Contractor. The relationship between the District and the City will be as independent contractors, and neither the City nor the District will be deemed or constitute an employee, servant, agent, partner or joint venturer of the other. **The District is obligated to pay federal and state income tax on any money earned pursuant to this Agreement, and neither the District nor the District’s employees, agents or representatives are entitled to workers’ compensation benefits, unemployment compensation benefits, sick and annual leave benefits, medical insurance, life insurance, or pension or retirement benefits from the City.**

2. District Employee Status. The Parties agree that District personnel providing any Services under this Agreement shall remain employees of the District and nothing herein shall be deemed to make any such personnel an employee of the City for any purpose, including but not limited to, wages, taxes, workers' compensation benefits, unemployment compensation benefits, sick and annual leave benefits, medical insurance, life insurance, pension or retirement benefits, and other benefits.

3. Nonliability of Officials and Employees. No elected or appointed official, employee, agent, consultant or contractor of either Party will be personally liable to the other Party or any successors or assign for any breach of this Agreement.

4. No Assignment or Subcontracting. The District will not assign or transfer any rights, interests, or obligations, or subcontract any Services, under this Agreement without the City's prior written consent.

5. Venue; Recovery of Costs. For all claims arising out of or related to this Agreement, the Parties agree to the exclusive jurisdiction of and venue in the state courts in the County of Adams, State of Colorado. The prevailing Party in any litigation to resolve a dispute between the Parties arising from this Agreement will be entitled to recover court costs and reasonable attorney fees from the non-prevailing Party.

6. Governmental Immunity. No term or condition of this Agreement will be construed or interpreted as an express or implied waiver of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

7. No Third-Party Beneficiaries. Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement will be strictly reserved to the parties. Any person other than the City and the District will be deemed to be only an incidental beneficiary under this Agreement.

8. No Waiver. The waiver of any breach of a term of this Agreement, including the failure to insist on strict compliance or to enforce any right or remedy, will not be construed or deemed as a waiver of any subsequent breach of such term; any right to insist on strict compliance with any term; or any right to enforce any right or remedy with respect to that breach or any other prior, contemporaneous, or subsequent breach.

9. Rules of Construction. Neither Party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all Parties and will be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all Parties. No term of this Agreement will be construed or resolved in favor of or against the City or the District on the basis of which party drafted the uncertain or ambiguous language. Where appropriate, the singular includes the plural and neutral words and words of any gender will include the neutral and other gender. Paragraph headings used in this Agreement are for convenience of reference and will in no way control or affect the meaning or interpretation of any provision of this Agreement.

10. Severability. A holding by a court of competent jurisdiction that any term of this Agreement is invalid or unenforceable will not invalidate or render unenforceable any other term of this Agreement.

11. Authority. The Parties represent and warrant that they have taken all actions necessary to legally authorize the undersigned signatories to execute this Agreement for the Parties and to bind

the parties to its terms. The signatories represent and warrant that each has legal authority to execute this Agreement for the Party he or she represents and to bind that party to its terms.

12. Counterparts; Execution. This Agreement may be executed in any number of counterparts, each deemed to be an original, and, taken together will constitute one and the same instrument. Signature pages may be executed via “wet” signature or electronic mark and the executed signature pages may be delivered using pdf or similar file type transmitted via electronic mail, cloud based server, e-signature technology or other similar electronic means.

13. Entire Agreement; Modification; Binding Effect. This Agreement contains the entire agreement of the Parties relating to the subject matter of this Agreement and, except as expressly provided, may not be modified or amended except by validly executed written agreement of the Parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement. This Agreement will be binding upon, and will inure to the benefit of, the Parties and their respective heirs, personal representatives, successors and assigns.

**[Remainder of this page intentionally left blank – signature page(s)  
follow(s).]**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**CITY OF COMMERCE CITY**

\_\_\_\_\_  
Jason Rogers, City Manager

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Dylan Gibson, City Clerk

\_\_\_\_\_  
John-Patrick Sansom, Assistant City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ADAMS 14 SCHOOL DISTRICT**

\_\_\_\_\_  
Printed Name, Title

Date: \_\_\_\_\_